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# RESURRECTION OF THE BLUE-LAWS; OR, MAINE REFORM IN TEMPERATE DOSES.

BEING A DISCUSSION OF THE PRINCIPLES, MORAL, POLITICAL,  
AND CONSTITUTIONAL, INVOLVED IN THE PROVISIONS OF  
THE LIQUOR BILL, BEFORE THE MASSACHUSETTS  
LEGISLATURE DURING THE SESSION OF 1852.

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BY A PRIMITIVE WASHINGTONIAN.

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"\_\_\_\_\_ Tell  
Why thy canonized bones, hearsed in death,  
Have burst their cerements! Why the sepulchre,  
Wherein we saw thee quietly inurned,  
Hath op'd his ponderous and marble jaws  
To cast thee up again! What may this mean,  
That thou, dead corse, again, in complete steel,  
Revisit'st thus the glimpses of the moon,  
Making night hideous?"—SHAKSPEARE.

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SECOND EDITION.

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BOSTON:  
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1852.



"RESIST WITH CARE THE SPIRIT OF INNOVATION UPON THE PRINCIPLES OF  
YOUR GOVERNMENT, HOWEVER SPECIOUS THE PRETEXT."

*Washington's Farewell Address.*

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## THE MAINE LIQUOR LAW.

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### CHAPTER I.

*The Assumption of Arbitrary Power as an Instrument of Reform.*

THE advent of this child of fanaticism in Massachusetts, and several other States, is another striking evidence that political wisdom is not easily taught from history or coëval example, but still is, and forever must be, the result of experience. Notwithstanding the vital sacrifices which have attended its growth, and the fiery baptism which must await its adoption every where, this Upas of the back-woods seeks to plant itself here upon the very grave of defunct Puritanism, that the ashes of bigotry may nourish and sustain it. The enormity of this example is more to be deplored, as it comes from a quarter whence we might have anticipated enlightened and practical legislation. We did not expect a stab at our liberties from Brutus, and our sister State has already placed us under many obligations, which this evil example may operate in some measure to cancel. We confess, with lively gratitude, to her numerous favors. To her people and productions Massachusetts owes much of its prosperity and domestic happiness. Among the most enterprising and intelligent of our citizens may be found her sons, and among the most beautiful and accomplished of our females, her daughters. She is a mine of native beauty and intelligence, and her gems are scattered—"shining with conspicuous light"—not only along the shores of Massachusetts Bay, but far and wide throughout the sunny South and the far West, constituting a fraternal tie, more potent than our Federal Union, and uniting her in bonds indissoluble with every member of the confederacy. But ambition as a law-giver can never add to her laurels, nor increase our obligations, and we can only hope that she will hasten to retrace the false step, which has fastened the imputation of anti-republican legislation upon her character, and thus make the only honorable reparation to herself and sister States.

In common with many others, who believed that a Massachusetts Legislature, elected under whatever party auspices, could not fail to possess the candor and independence to decide upon the merits of any measure of public policy which might be submitted to them, irrespective of party or personal considerations, we have been pained to observe the persistence which has been generally manifested, in blending this question with party issues and destinies, in which the interest of some of our legislators is evidently too deep to be less than personal. But since the debates upon the bill have had reference, in a great measure, to objects foreign to those contemplated by the petitioners for the law, the necessity of full and general information in regard to a measure so important in all its bearings upon the rights and interests of society, renders it the duty of the press to diffuse all possible light upon the subject; so that, if our representatives have not the moral courage to meet the question boldly and unconditionally on the merits of this law, as a fit and practicable remedy for the evils of intemperance, their constituency may at least be able, when the functions and responsibility of legislation shall be imposed on them, to decide it intelligently for themselves,—and whether they will surrender, even to the demands of misguided philanthropy, those social rights which alone distinguish them as intelligent freemen from the serfs and vassals of despotism. And if, in what may follow, an humble individual, who has fought in the ranks of the Washingtonian army, may now appear arrayed on the side of the opponents of the Maine liquor law, it is hoped his position may not be misapprehended, inasmuch as it is not because he loves the cause of temperance and sobriety less, but that he loves the cause of civil liberty more, and will not consent to open a door to legislation whereby that liberty may be indefinitely abridged, or perhaps ultimately subverted.

"Can the provisions of the Maine liquor law be enforced in Massachusetts?" was the first question asked in our Legislature, upon the reception of the "mammoth petition," and its consideration has engrossed a large share of the discussion upon the bill since it was reported in the Senate. This question implies at least a doubt or misgiving in regard to the popularity of the measure, which, if well grounded, must be a fatal objection to its enactment. But the question cannot be regarded as material to the argument, since a law which may be enforced is not necessarily a popular or efficient one. It is the province of true legislative policy to ascertain, not merely whether public sentiment will *sustain* a proposed law, but, first of all, whether the public interests demand it, and further to understand that these interests can never be advanced by partial legislation, or by the sacrifice of individual rights, however small, to subserve moral ends, however great. It is not enough to be satisfied that the sentiment of a community will *endure* the operation of a law, without complaint or revolution; nor is the ascertained fact of a popular majority in favor of any moral principle a conclusive

evidence of its popularity as a law. A popular and efficient statute, (especially in criminal jurisprudence,) must harmonize with the great aggregate of the intelligent public mind, and must do no violence to the private rights or moral principles of any respectable portion of the community.

What though it were already demonstrated that a majority of the people are in favor of the provisions of this bill as first reported, unpruned of the least of its enormities—would this fact, abstractly considered, be sufficient reason for its enactment? If so, why have we constitutions for the limitation of law and the protection of individual rights? Our Legislature is not invested with the law-making prerogative merely to consult the will of the *majority*; they have higher purposes to subserve, in attaining the ends of justice and equal rights, in protecting the interests of the weak as well as of the strong, and in guarding the rights of the *minority* from popular innovation. The minority, however meagre, have rights which may not be wrested from them; the majority are neither absolute in power nor infallible in judgment. Tyranny is equally odious and unjust, whether exercised by the imperial despot or the popular majority. The principle which lies at the foundation of this bill—the absolute right of government to control the appetites, opinions and occupations of the free citizen, is the same in essence, and exercised for the same general purposes, as that against which the popular masses of Europe have long struggled in vain, and against which the American people, in the last century, struggled successfully—the principle of absolute power, exercised for the attainment of an assumed necessary object. Say the despots of the Old World, “We cannot govern our subjects as the best interests of the nations require, unless we govern absolutely, and without reference to popular rights.” So say the fanatics who would thrust this sumptuary law upon us,—“We cannot subdue intemperance as effectually as the public interests require, unless we exercise the absolute power of prohibition, without reference to incidental proscription, or the necessary infraction of individual rights.” The people of Europe, as far back as the record of history extends, have struggled against absolutism, for limitations of monarchy, and for chartered rights. How humiliating the spectacle—how little it speaks of human progress—that, in the maturity of the nineteenth century, the people of New England are called to resist so bold an innovation of the same principle upon our constitutional rights!

The friends of this bill, not content with the slow and laborious process of moral suasion for the suppression of intemperance, have determined upon a summary experiment for reaching the evil, and are apparently regardless of consequences, so long as their ends are even partially attained; however dear the victory, it must be achieved at any price—even if, in the strife, our civil liberties are trampled in the dust. What though the use of ardent spirits is a custom time-honored, interwoven with all our social relations, and sanction-

ed by the honest convictions of a large and respectable portion of the community—though their manufacture and sale are closely blended with other industrial interests, which, if this fall, must fall with it—though private property must be confiscated and destroyed without remuneration—though homes are outraged, places of business haunted by legal spies, neighbors set at enmity, intemperate passions stirred up, hostility and contempt for the laws engendered, and social strife and civil discord reign—though virtue bleed with vice, and friend fall with foe, still the blow must be struck. “We will root out the tares,” say they “and if the wheat is torn up with it, why, that is but an effect incidental to necessary reform, and the end must justify the means!” They start in this career of legislation upon the well-grounded presumption, that the evil lies too deep in the constitution of society to be eradicated by compulsive remedies which are not harsh and indiscriminating; strictly prohibitory laws will not reach it, unless framed and enforced in a spirit of tyranny which must infringe the plainest principles of civil liberty. Hence, to effect something in the way of reform, they aim in this bill to be *tyrannical*. As one of its most zealous advocates in the Senate has significantly urged in debate, the law *must* be tyrannical to effect its object; and he deprecates any amendment which shall divest the bill of this potent characteristic, as impairing its efficiency. He undoubtedly thinks, the more of this tyrannical spirit is infused into it, the better it will operate,—and we would respectfully suggest for his consideration, whether an amendment, substituting capital punishment for the breach of its provisions, would not be an important improvement upon his plan of legislation.

But we have yet to learn that arbitrary laws, whether emanating from a monarch or a popular majority, may ever prove an efficient instrument of moral reform. Unrestrained volition listens to the voice of conscience and reason, but shrinks from compulsion, and snatches the forbidden fruit. Unsuspected integrity seeks no opportunity to do wrong, but, under a *surveillance* which attaches suspicion, it hastens to verify the implication of guilt. Sumptuary laws have been repeatedly prescribed in England and other foreign countries for the same specific purpose, and as often repealed, after a disastrous experience, which has proved them worse than useless—an experience by which we may profit, unless we choose, at a price greater than the evil of intemperance, to purchase it for ourselves. Even the history of legislation in our own country and State furnishes illustrations of the fact, that, even when exercised within constitutional limits, the popular will (so often mutable and impulsive,) is no unerring guide for legislation, and that the majority may be unjust, even to themselves, and may sacrifice their own cause, however meritorious, by indiscreet efforts to compel their fellow-citizens, who sincerely differ from them in matters of conscience, to come up to the standard of their convictions. Such a majority, which abuses its privileges, are soon supplanted in their proscriptive career; but

they fall not alone—their cause falls with them, and it falls lower than the level at which unaided public sentiment sustained it. The odium of such legislation reacts with tenfold energy upon the opposing principles of vice and virtue, and while virtue is degraded and despised for the errors of her misguided champions, proscribed vice, like a canonized martyr, is exalted to the heavens, and reigns and rules triumphant over the passions of the people.

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## CHAPTER II.

### *Prostitution of the Total Abstinence Cause to the Subserviency of Party Purposes.*

Again, the humiliating attitude in which the friends of total abstinence are placed, by bringing their cause within the sphere of legislation, would seem to be a sufficient argument against the expediency (not to say the propriety) of mingling questions so purely moral and delicate in their nature as that of total abstinence, with the issues, plots and counter plots, which constitute the machinery of partisan tactics. Legislators, with few exceptions, are political aspirants, acting not merely with reference to the permanent welfare of society and the State, but especially the approbation of a constituency upon whose favor are based their hopes of future advancement. Political ambition, with its canvas spread to catch the changing breeze of popularity, is at best a perilous craft to bear the interests of moral reform, and the folly which would confide them to such guardianship hardly deserves a better fate than the shipwreck which is but too sure to await it. It is not the province of the statesman or law-giver to guard the morals or chasten the appetites of the people—these delicate offices are confided to other and peculiar hands—his study is political economy, and the conservation of those civil rights which the indiscreet philanthropy of the advocates of this law seek to infringe and violate. No matter how sublime the principles, or how divine the objects of a moral question, if brought into the political arena, (as every question must be when submitted to the legislative function) it is at once bereft of its lofty attributes, and the height and grandeur of its moral aspect is but the measure of its political degradation.

Thus the total abstinence reform, seeking compulsive aid at the hand of our Legislature, becomes (alas! for the dignity and purity of its objects) reduced to the level of a political element—it is new stock for the manufacture of political capital—a new instrument to subserve party purposes. No member will give a vote or say a word in its favor, to the prejudice of his party or his personal popularity.

Party tests are at once applied to it ; it is weighed, measured and gauged, not according to its moral, but its political advantages, and Senators ask, not what will be its effect upon the public welfare, independently of us ? but, how will it affect our constituency towards us ? And thus, chained to the car of demagoguism, it is apparently doomed, either to perish at once in its degrading predicament, or to perform for a season the miserable drudgery of party service. Those who have heard or read the recent debates in the Massachusetts Senate, upon this bill, will not fail to appreciate the truth of these observations, and the votes given upon the main question, in that body, (with a few most honorable exceptions) show conclusively the rigid adherence to party interests which governs the action of our Legislature upon it.

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## CHAPTER III.

### *Dangers of Irresponsible Legislation.*

As an illustration of this subserviency to party purposes and personal popularity, I need only refer to the amendment which has been adopted in the Senate, providing for a suspension of the law, by a popular vote — which is in effect merely shifting the responsibility of its adoption from the Legislature to the people, and must have the effect of securing more votes for the bill than its unaided merits would otherwise command. Whether it is constitutional or not, whether sanctioned by precedent or not, the amendment is at best a cunning but cowardly device to evade legislative responsibility, and establishes a precedent which is liable to the gravest objections. By enacting it with this proviso, should the law meet with popular favor, our legislators will appropriate to themselves the meed of popular approbation ; but otherwise, they will shake off the odium which would attach to its unconditional passage ; and if ever, hereafter, its reminiscences shall arise, like Banquo's ghost, to haunt their troubled spirits, they will exclaim, with Macbeth, "Thou canst not say *I did it!* Never shake thy gory locks at *me !*"

But wherein consists the propriety of referring this question to the people ? It is not the province of the people to legislate ; they have delegated this power to their representatives, who have superior facilities for understanding their interests, and in whose judicious action and public spirit they generously confide. Every year they enjoy the opportunity of reviewing the acts of their public servants. Why, then, if the principle of enforcing total abstinence be a fair and legitimate subject of legislation, and such legal

compulsion is deemed requisite to the public welfare—why take this extraordinary precaution of submitting the question to the people? Or, if the element of popularity is the only thing to be considered in framing laws for the government of our Commonwealth, why not refer every bill, without regard to its abstract merits, to the same tribunal? As one of the people, we earnestly protest against this irresponsible mode of legislation, both in general and in particular. Its general effect must be to convert our Legislature into a school of fawning sycophants, studying, not the public interest, but solely the art of pleasing their constituents, who, in their turn, would be justly led to distrust both the intelligence and patriotism of their representatives. Its particular effect in this case must be, to impose upon the community an infamous and impracticable statute, without due consideration of its merits or consequences. The very anxiety of our legislators, to shuffle off the responsibility of enacting this bill, plainly implies their doubt as to its being a subject within the ordinary scope of legislation. Indeed, one Senator, the other day, (in the simplicity of his mind, but the corruption of his heart,) while declaring his firm conviction that the bill was unconstitutional, at the same time avowed his willingness to vote for it, provided it should be referred to the people for ratification—in other words, he was willing to sacrifice the most sacred rights of the minority, by imposing on them an unconstitutional law, provided he might thereby please and gain the approbation of the majority. By adopting this amendment, a full investigation of the subject, in its manifold bearings upon our social economy, either by the Legislature or the people, is at once precluded, and we shall perceive, perhaps too late, that the question has been decided irrespective of its merits. Many of our honest representatives (not to mention those who are ready to sacrifice their better judgment at the shrine of popularity) will thus heedlessly be led to support the bill—who would otherwise oppose it, upon mature investigation—presuming the people will investigate the subject for themselves; while the people, confiding in the fidelity of their representatives, and presuming the subject has received all due consideration in the Legislature, will be led to sanction the law, regardless of its ultra and revolutionary character. And thus, between a misplaced confidence on the one side, and an unmanly evasion of responsibility on the other, the people are in jeopardy of being overridden by a legal monster, paralleled only by the Roman Inquisition, by which their dearest civil rights are to be violated, the sanctity of home invaded, the pleasures and courtesies of social intercourse abridged, the citizen persecuted for opinion's sake, and hunted to his very fireside for evidences of his heresy, as were the Scottish Covenanters to their caves, for their blood and their Bibles.

## CHAPTER IV.

### *Constitutional Objections to the Liquor Bill.*

The principle of equal rights is distinctly recognized, and carefully guarded, in the provisions both of our State and Federal Constitutions. It is not in accordance with the spirit of our institutions to legislate solely with reference to the good of a particular class, or to withhold privileges from one, which are, without preëminence of claim, extended to another. Special or class legislation not only renders government odious and burdensome, but defeats the end for which it was instituted. The right to use and traffic in alcoholic liquors, whether it be a privilege or otherwise, should not be made an exclusive one, and, if the Legislature of a State does not possess the constitutional power to restrict this right in all cases, and among all classes, it has no right to restrict it in those particular cases which fall within its jurisdiction. Although this bill pretends to regard all the express provisions of the Federal laws, it conflicts wholly with their spirit; and, by stooping to the most pitiful evasion, it proscribes a portion of the community, who are within the reach of its arbitrary power, while the remainder are suffered to escape under the protection of a higher law. It assumes to do what it is impotent to do, but in particular cases, which form no exception to the general principle in regard to the expediency or right of prohibition.

The Federal laws authorize the importation and sale of ardent spirits and wines in certain quantities; but, under all other circumstances, this bill assumes the power of unconditional prohibition. Hence, imported liquors, in the original packages, may be bought and sold under its operation, while those of domestic production, even of the same quality and in the same quantity, can neither be bought, sold, or held as property. Thus, the products of foreign industry are poured into our market without restraint, while the like products of home industry are proscribed as contraband articles, and are liable to be confiscated and destroyed, without remuneration to the owner, wherever they may be detected. "But," say the friends of this measure, "we have prohibited the retail of these imported spirits, by the pint or the glass." And this is the great objection to the passage of this bill—while it prohibits the sale of spirits in small quantities, it cannot prevent the sale of casks and packages, nor of wine imported in bottles, and is thus obnoxious to all the objections urged against the "Fifteen Gallon Law." It operates to the exclusion of the mass of the people from the privilege of trafficking in, and the luxury of using, such liquors, while those who can afford to import them, or purchase in specific quantities, may traffic or consume at pleasure.

It not only makes this odious and senseless distinction between imported and domestic spirits, and is thus partial and unjust in its operation, but it permits even the seizure and destruction of the imported article, unless the holder shall *prove* (and by evidence other than the Custom House marks upon the casks or packages) the facts of its importation, and of its being contained in the original parcels. If he cannot do this, his property, that which the General Government has taxed and guarantied *as property*, is wrested from him and destroyed without remedy. (Private property cannot now be taken for public uses without full compensation, but, under this arbitrary law, such property may be taken for *no* use, and without recompense.) Upon the same principle, the government may, without proof on its part, dispute the title to all sorts of private property, and compel the holders to account for their rightful possession, otherwise it shall be forcibly taken from them. Are the people of Massachusetts, or any other State, prepared for such interference with the rights of property?

Again, the bill expressly reserves the right to manufacture for export, in quantities not less than thirty gallons, (which is particularly gracious, since, under the Constitution, Congress possesses the sole power to regulate commerce with foreign nations and between the States, leaving the latter no authority whatever to interfere with exports,) so that, though our distillers cannot manufacture for home consumption, they may manufacture any quantity to send abroad; we may reciprocally supply other States, while other States supply us; we must not make drunkards within this Commonwealth, but we may make as many as possible among our fellow-citizens of neighboring States, and in foreign countries; we may use alcohol for sacramental purposes at home, and missionary purposes abroad, and if the heathen will consume all we manufacture, we shall suffer nothing from abolishing the home market.

Further, this bill makes the act of selling ardent spirits a crime, but attaches no criminality whatever to the act of drinking, and is, in this view, grossly partial and unjust. It makes an invidious distinction in favor of the consumer, who is not only *particeps criminis*, but in reality *princeps criminis*, since he presents the strongest temptation to violate the law—the temptation of money. Now, the sale of alcohol can only be deemed a crime, on the ground that the *use* causes evil; but if the *use*, which is the direct cause of evil, is *not* a crime, as the law presumes, then the *sale* can by no fair construction be made a crime, and our Legislature has no right to punish it as such, unless it also punishes the *use*. It has no more right to organize a corps of spies and informers, to watch over the citizen's place of business, to see if he does not sell ardent spirits, than it has to set a guard over him at his meals, to see if he does not drink. "But," say the supporters of the law, "we need not make drinking a crime, for if we suppress the traffic there will be none to drink." We answer, neither if you suppress drinking will there be any for

sale. We repeat, therefore, that the law in this respect is invidious, and punishes the accessory to the evil as the principal, while the principal is wholly exculpated.

Further, it allows searches and arrests to be made, in shops and tents, on *suspicion of intent* to sell ardent spirits, which is a presumption of crime neither sustained by reason nor common law. It allows officers to seize and hold property in custody, pending decisions under it, without giving bonds for its security; and if they choose to destroy the external proofs of its being *bona fide* property under the Federal laws, or even to destroy the property itself, the owner has no legal remedy. As it cancels all debts predicated upon the illegal sale of spirits, it hence annuls all contracts and interchange of commodities involving such sale, and thus interferes with the titles to all kinds of property, except real estate. While the second section of the law pretends to guaranty the right of export, in another section it makes the act of delivery on board any vessel or steamboat a proof of illicit sale, and the basis of prosecution—being hence inconsistent in itself, and in direct conflict with the supreme laws regulating commerce with foreign nations and between the States.

The bill, as reported, requires excessive bonds, in cases of appeal from the primary decisions under it, before a Justice of the Peace, (not allowing even the alternative of commitment,) so as effectually to preclude the trial by jury, whenever the defendant is too poor or friendless to produce the required bail in twenty-four hours. It also disfranchises the citizen, by disqualifying him to serve as a juror in cases arising under it, if, upon being interrogated as to his being himself a violator of the law, he shall admit the fact, or refuse to answer—a stretch of extra-judicial authority unheard of, and unparalleled in enormity, and which, if engrafted in principle in our judicial system, would, in all criminal cases, require the arraignment of the jury as violators of the law, before they would be qualified to try the criminal! Though the first of these provisions of the bill has been essentially modified in the Senate, and the latter stricken out, it is quite probable that the champions of the Maine law in the House, who hold, with its champions in the Senate, that the more arbitrary and tyrannical the law can be made, the more efficient it will prove as a moral reform agent, will insist upon their restoration.

## CHAPTER V.

### *The Principle of Compulsive Total Abstinence.*

We contend that the Maine liquor law is based upon a wrong principle, and violates the fundamental rights of the citizen, inasmuch as it proscribes a custom which is neither conceded, nor can be

demonstrated, to be founded in error. It totally prohibits the manufacture and sale of alcoholic liquors as a beverage, and is therefore based on the presumption that such drinks do not in any measure admit of harmless indulgence—that they are wholly pernicious, and should therefore be wholly prohibited. [And, even admitting the presumption to be correct, if it is conceded, as a sound principle of legislation, that the government may totally prohibit *any* article or custom, on the ground of its injury to public health and morals, then it becomes equally its duty to prohibit *every* pernicious article or indulgence, whether affecting the welfare of the body or mind, and whether pertaining to food, drink and raiment, or literature and religious faith—the following out of which principle must have the effect to prescribe legal rules for all the minutiae of taste and fashion.]

But this presumption is far from being tenable by any process of demonstration; and, as there are conflicting opinions in regard to it, we appeal to reason if this proscriptive legislation is not, contrary to the spirit of our institutions, taking every man's conscience into the keeping of the State. If there are but six individuals in the Commonwealth who can consume ardent spirits moderately, without physical or moral injury, (the contrary not being demonstrable) the government have certainly no right to prevent them from thus using it, or supplying it to each other, whatever may be its effect upon the rest of the community. No matter how small the minority whose rights are violated; in infringing the rights of one, the rights of the whole people are sacrificed. Not even a solitary member of society, however insignificant, without actual crime, or criminal intent, can be shorn of his civil rights, in mitigation of any social evil, nor immolated as an offering upon the altar of the public weal. We do not deny that total abstinence is a virtue—that it is commendable, magnanimous, and patriotic, even in those who hold the mastery of their appetites. We glory in the success of the total abstinence cause, as its moral triumphs have been achieved by the Washingtonian advocates, and believe it a noble end when thus attained by noble means. But, in enforcing it by law, we not only fail to produce any genuine reform in society, but violate the plainest principles of civil liberty, guarantied by our constitutions—the right, in eating or drinking, to consult our own tastes and individual welfare; the right, in morals, of being guided by our own consciences; and the right to hold and transfer that which the Federal laws recognize not only as property, but as *merchandise*.

But let us inquire whether this presumption, embraced in the proposed law, that all alcoholic drinks are wholly pernicious, is grounded upon fact or imagination. True, it has been a matter of much scientific speculation among physiologists, who generally agree that pure alcohol, when taken into the stomach, is not assimilated from the circulating fluids, and contributes nothing to the nourishment of the system; but this is equally true of many alimentive condi-

ments which are not actually pernicious, but often beneficial in their action, as correctives of the various bodily functions. But, throwing aside scientific abstractions and fine-spun theories, let us appeal to the test of experience and ocular demonstration for a solution of the problem. Shall we, for proof of this presumption, look to the sturdy New England farmer, who, perhaps, for half a century, has quaffed his mug of hard "old orchard" at every daily meal? Does he, in body or mind, illustrate the baneful effects of alcohol? Shall we observe the brawny Englishman, who tosses off his draught of "brown stout" at almost every mouthful of roast beef? Shall we appeal to the portly Bavarian, who philosophises alternately over his meerschaum and sparkling ale? or, shall we visit the happy peasant on the vine-clad hills of France and Spain, and the luxuriant fields of Champagne and Burgundy, where,

"Annual for him the grape, the rose renew  
The juice nectarian, and the fragrant dew?"

What argument, from the banks of our own Connecticut to the classic banks of the Rhine, do we derive in favor of the presumption involved in this bill? Is it not wholly presumption, and of the most unwarrantable description? It was a saying of the ancient Greeks, —“*Ἐν οἴνῳ εστίν αλήθεια*,” —in wine there is truth,— and, although this saying does not always hold good, in our time and country, while we have a pernicious substitute of rum and logwood imposed on us, yet, under a well regulated, and, if you will, severe system of licenses, these spurious and poisonous liquors, which in reality produce almost the sum total of the evils of intemperance, may be entirely driven from the market, and the truth of the ancient proverb become once more verified. Indeed, we find but few cases of drunkenness which have originated from the moderate use of simple, unadulterated distilled spirits. If, then, this presumption is unfounded, what must be the effect of such a sumptuary law? It treads upon forbidden ground, and inculcates a principle, which, if carried out, must surely overthrow both our civil and religious liberties. Are the people of Massachusetts prepared to follow out this principle of legislation in all its consequences? The question is but one of moral opinion, upon which the community are honestly divided. *All* erroneous opinions in regard to moral subjects are undoubtedly pernicious, but who shall say *which* opinion, in regard to this question, is erroneous? Shall A, who thinks wine hurts him, pronounce B, who thinks wine does him good, a heretic? and, for this opinion's sake, shall A, being the strongest party, not only thus denounce B, but, if he refuses to abjure his opinions, despoil him of his rights, brand him as a criminal, and cast him out from society? His principles are thought to be pernicious—so were thought to be the principles of the Protestants

of the fifteenth century, in the days of the Reformation. We have an instinctive dread of proscription, and our hearts thrill with horror as we look back upon the bloody records of religious intolerance and persecution. But now we would tread in the very footsteps of the Holy Mother Church, we use her own arguments to sustain our cause, we arraign our fellow citizens for the selfsame offence—they are guilty of heresy—they differ from us in an important doctrinal point—and we shall take but few steps in this path of bigotry and intolerance, before the same unhallowed zeal which consumed our fathers, will again erect the stake and enkindle the fires of persecution. Shall we not profit by the example of the Puritans, who, having escaped from religious persecution, became, in their turn, the vindictive persecutors of their weaker brethren? Shall we, instead of illustrating their virtues, go back to copy the dark shades of their character, and revive in principle that infamous code of blue-laws, which the progress of enlightened public sentiment has almost swept from our statute books, and the results of which every true son of the Pilgrims would wish were expunged from our historic page? We may make martyrs to the cause of total abstinence, by this bill, but never proselytes; but if we *do* thus make martyrs, depend upon it, we, in our turn, shall be sacrificed, and the ruin of the temperance cause, with the blood of thousands, who will hence go down to the drunkard's grave, will be upon our heads.

"But," say the friends of this bill, "moderate draughts deprave the appetite, and we shall never be able to subdue drunkenness until this moderate drinking is prohibited." Admitting this to be true, still there is no principle of law or justice which authorizes the punishment or prohibition of an act which is not criminal in itself, on the presumption that it *leads* to crime. Jealousy and envy may lead to murder or suicide; yet, neither he who indulges, nor he who excites these passions, is obnoxious to the law, unless the overt act of violence is committed. If the law is to suppress every *tendency*, and punish every act and appetite which *leads* to drunkenness, it must go back to take cognizance of first causes, and suppress, not only the manufacture and moderate use of alcohol, but the vegetable products which spontaneously produce it, and punish the physical and moral instincts which are gratified by its excitement. Distilling must not only be abolished, but the laws of nature must be arrested; molasses and grain must not be allowed to ferment, or they must also be prohibited. "Moderate drinking depraves the appetite, and leads to drunkenness"—so does avarice deprave the heart, and moderate gains lead to avarice, which has more victims, and produces more misery, than alcohol. The miser starves in the midst of his hoarded treasure, and the glutton dies of surfeit—are not these, also, subjects of legislation? The unbridled passions of men engender strife, envy and hatred, which are demoralizing in

their influence, and lead to crime — shall we thence establish a legal measure for our passions and affections?

When the rich man died — “and in hell he lifted up his eyes, being in torments” — he besought father Abraham, who was afar off, (and between them there was a great gulf, so that he could not send him a “mammoth petition,”) to send one from the dead, to warn his five other brethren against the danger of falling into those infernal flames ; but Abraham replied, that his brethren already had the warnings of Moses and the prophets, to shun his miserable doom, and if these were unheeded, still they would not believe though one should arise from the dead. So we would have the fathers of the Commonwealth reply to the petitioners for this law. Those who are in danger of becoming drunkards have the benefit of both precept and example ; they have illustration piled upon argument, to guard them from excess ; and, if moral suasion will not prevent them from becoming sots, no laws which human ingenuity can frame can save them from perdition.

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## CHAPTER VI.

### *The True Policy of Moral Reform.*

Numa Pompilius, the second king of Rome, who, like Cincinnatus, was called from retirement to exercise regal authority, and who probably effected more than any other of her rulers in diffusing civilization and morality among the people of that barbaric age, held as a favorite maxim, that popular vice could best be suppressed by encouraging the cause of virtue ; and this principle he carried out, with the happiest effects, in all his civil policy. Though really an absolute monarch, he governed the turbulent Romans not as a tyrant ; and, though a pagan, his devotion to what we style the Christian virtues and graces would have done honor to any prince of Christendom. His criminal code embraced only the gravest political offences, while his laws for the encouragement of private and social virtues were numerous, and based upon the moral and religious sentiments of the people. He deified truth and honesty, and instituted the worship of the god *Bona Fides*, (or good faith,) and such was the salutary effect of this institution, that the Roman citizen needed neither note nor bond to legalize his business obligations ; he could traffic without danger of fraud, and expose his treasures without fear of plunder ; and, so great was the popular regard for truth, that, in cases of dispute or litigation, a mere *ex parte* examination, the testimony of either party, was reliable data for legal decisions. He first established territorial boundaries, which

were solemnly dedicated to the gods *Termini*, and such was the sanctity of a Roman landmark, even if but a stick or a stone, that the displeasure of the gods was sufficient to deter the most reckless from disturbing it. "Erect altars," said the heathen monarch, "to those virtues which carry us up to heaven, and fear not the infernal gods." His was a model government, worthy of modern imitation; and who shall say his was not the "golden age?" It was eminently a religious age; and if, in ages after, the Romans became a licentious and intemperate people, it was because they lost that respect for virtue, and that reverence for religion, which gave place to the modern improvements in jurisprudence and theology; which substituted the scaffold, the gibbet and the dungeon, for promoting the ends of justice, and the Inquisition, with its paraphernalia of torture, for attaining the aims of religion.

Why is it, that in the progress of time, the moral improvement of society has not kept pace with the march of popular intelligence? Why is it, that, while the great mind of the world has apparently arrived at such a degree of maturity, its morals still remain in leading-strings, and the ponderous volume of its criminal code is still swelling with enactments for the repression or regulation of every human sense, appetite and passion? Shall it be said that the progress of civil liberty has multiplied penal laws? Or is it because, that, while the mind of man is expansive, his moral nature is irreclaimable? The moral sentiment, as well as the mind, of every generation is the same, and, but for false principles in social economy, public virtue would undoubtedly keep pace with public intelligence. Human nature, abstractly, can never be modified by human laws; its instincts are immutable; and would modern lawgivers, like Numa Pompilius, instead of endeavoring to reform human nature, be content to lead its current into true channels, and, instead of seeking merely to repress its morbid tendencies, should give its natural functions full scope and healthy action, they would produce moral results worthy of an enlightened age.

It is not our purpose to extenuate the evils of intemperance—they are too great to be easily exaggerated. But we wish to investigate the radical cause of these evils, and to inquire if the total prohibition of intoxicating drinks is the proper remedy for them. Why do men drink alcoholic liquors to excess? "To gratify a depraved appetite," will be the ready answer—or, more properly, from a temporary physical necessity for its stimulus. But this physical necessity is itself the result of inebriation, and drunkenness, in its first stages, must be the result of wantonness, and is therefore properly regarded as a moral delinquency. But why do men drink moderately? From custom, prompted by those social feelings which are enhanced by it. The custom, then, has its foundation in those social qualities which are inherent in human nature, in that instinctive conviviality, which is heightened and strengthened by alcohol, and which no laws, however penal, no discipline, how-

ever severe, can eradicate from the human breast. Its manifestations are coëxtensive with the human race. All nations have their social stimulants—the Indian his council pipe, the Chinese his tea, the Turk his opium ; and, to seek to repress the convivial tendency of human nature in this channel, without opening to it other sources of healthful excitement, would be but a transition from one species of intemperance to another, or perhaps to many others, equally deplorable. It would be like lopping off the twigs of a pernicious tree, while its roots remained vigorous and undisturbed ; or, like Hercules demolishing the hydra heads, which sprang out more fierce and terrible at every blow.

There are, moreover, other influences than those of appetite or conviviality, (and more potent and extensive than the superficial observer might suppose) which lie at the foundations of intemperance. The public eye does not fathom the depths of the drunkard's heart, nor does the public ear take cognizance of his silent grief ; but trace him in his most delicate relations, look into the bosom of his family, and, too often, you will find that the absence of that kindly influence which alone renders home attractive, and hallows its charmed circle, is the sad cause of his devious career. Such causes, neither legislation, nor hardly philanthropy, can reach ; and when you compel him to abstinence, what relief do you bring the sufferer ?

An excellent illustration of this general principle is afforded in the answer of an emigrant, who was recently brought before one of our municipal courts, charged with gross inebriation. When asked if he had any plea to offer in his defence, he declared that he was by no means addicted to this habit ; that, in the old country, without incurring any expense, the common people could attend the races, cock-fights, dances, &c., which afforded them all necessary excitement ; “ But, faith ! ” says the Hibernian, “ here I can find nothing to do to amuse meself, sure, but jist to git dhrunk ! ” Alas ! for ennui. European society, notwithstanding its defects and abuses, may be credited for some peculiar advantages in the way of cheap popular amusements, and this may account in some measure for its comparative exemption from the evils of intemperance, even in those districts where alcoholic drinks are the spontaneous and abundant product of the soil. Could these features be engrrafted in American society, they would undoubtedly effect more in eradicating intemperance, than legislation upon the subject ever did, or ever can do, to that great end.

## CHAPTER VII.

### *Operation of the Liquor Law in Maine.*

"Prove all things; hold fast that which is good"—is a maxim as excellent in the mouth of a politician as that of an Apostle. True, experiments upon the body politic, trenching, as they are apt to do, upon the fundamental principles of liberty and popular rights, like quackery in the practice of medicine, are hazardous to its general welfare, and often leave the patient with a worse distemper than the malady they undertake to cure. This proposed legal compulsion to total abstinence, as a theory, has long been talked of; its practicability has been discussed, though ably, yet not to a generally satisfactory conclusion. The experiment has been viewed with mingled anxiety and distrust. But, thanks to the sufferance of the good people of Maine, the experiment has at length been tried; the power of legal suasion, in the operation of a strictly prohibitory law, has been fairly tested. The advocates of this bill, instead of answering our objections to its glaring atrocities, point us to the State of Maine, and exultingly exclaim, "Lo, the triumphant success, the grand illustration of our scheme! The thing works to a charm; behold and believe!" But when we look for this modern miracle, we perceive only an exhibition of political legerdemain; instead of ocular proofs of the efficacy of legal suasion, we find additional and overwhelming evidence of its absurdity and unfitness as applied to the cause of abstinence.

As a law-abiding people, the citizens of Maine have ever presented a most happy example. Devoted to productive industry—industry, always patient—and the quiet pursuits of rural life, the popular excitements, to which more densely-settled communities are prone, have rarely disturbed the placid bosom of "down-east" society. The people of that locality are proverbially amiable, and distinguished for the social quality in Yankee parlance termed *cleverness*; nothing less than an attempted excision of a large slice of their State territory, by John Bull, has of late years aroused in them a spirit of resistance. What, then, must have been the provocation which has caused that forcible resistance to the laws and civil authorities, those specks of civil war and revolution, which we have been pained to witness, in carrying out the provisions of the Maine liquor law? They are provocations which cannot be duly estimated in the distance; they must come home to our own doors and firesides, to be realized in all their bitterness and severity. They consist in the violation of those private rights which the American people hold most sacred and dear—to establish which they have braved dangers and death, and to preserve which they will always

struggle against tyranny, whether in the shape of a foreign or domestic foe. They consist, not only in an abridgment of constitutional rights, in regard to the possession of property, the pursuit of industry, the interchange of hospitality, and the gratification of taste and social feeling, but in the imposition of a system of public *espionage*, as annoying to the observers as to the violators of law, and more odious and oppressive to the citizen than any like system ever invented by Austrian or Russian despotism, for the detection and punishment of treason. It renders the citizen, both in his business transactions and his social intercourse, an object of foul suspicion; it places his private mansion in the light of a presumptive criminal resort, and exposes even the sanctity of his domestic retirement, upon the most trivial pretences, to the intrusion and vulgar scrutiny of the minions of the law.

But where will these evils end? Will a law, already failing of peaceful observance, and never approximating to a fulfilment of its ends, finally subdue opposition? Will the people of Maine ultimately yield up their rights and convictions, and, by tame submission, put an end to the strife which has thus far marked its sanguinary operation? When this strife shall terminate, it will not end in the triumph of law, but in the triumph of public sentiment over law. It must continue until the law either is expunged from the statute-book, or stands there, like the vestiges of the defunct Puritan code of blue-laws among our own criminal statutes, as a relic of barbarism, a monument of the folly and bigotry of its projectors. Failing, as it has, to secure the respect of the intelligent public—violated, as it is, generally and with impunity, its demoralizing influence must extend to all the relations and institutions of society, and sap the very foundations of government. The reverence for the laws, with which the public mind is imbued, must depreciate with every breach of its provisions, and the most essential and wholesome statutes must ultimately share in the popular contempt for legislation which this has generated.

Had all the violations of law and order, which have occurred in enforcing its observance, been caused by *intemperance*, what a fruitful theme of criticism would have been afforded to the agitators and fanatics who concocted the Maine liquor law! What outpourings of indignation, what bursts of eloquence, would have commemorated the facts! The day of doom might, perhaps, have heard the last of it, but our generation never would. But, what though these outrages were brought about by the operation of law, instead of intemperance, are they less to be deplored, or less demoralizing in their influence? If the law produces strife, as well as intemperance, what advantage has the law over the vice which it prohibits? The law is but substituting one evil for another, and is itself but one of the worst and most aggravated forms of intemperance.

Let us now inquire how successfully this wondrous, labor-saving machine of moral reform has performed its functions, in abolishing

the sale and consumption of ardent spirits in the State of Maine. The school of the drunkard, its advocates tell us, (and which, for argument's sake, we will take for granted,) is not the low groggeries, where tipplers "most do congregate," but the luxurious drawing-room and the elegant sideboard, where the neophyte sips his social glass for fashion's sake, or good fellowship. But while, by this law, a few of the low groggeries have, perhaps, been swept out of existence, (or, not actually out of existence, but merely driven from the face of day, into some subterranean rendezvous, where the spies of this modern Inquisition cannot penetrate,) the high places and strongholds of intemperance—the fashionable hotels and club-rooms—"the school of the drunkard"—remain unscathed by its besom of destruction, and the students and graduates of these flourishing institutions are every day growing more numerous under the operation of the law. What care they for spies and prohibitions?—these are but intended to put down the groggeries—"Let the galled jade wince—*our* withers are unwrung!"

The public bars of the hotels in Maine are, indeed, abolished; but in their cellars is stored an abundance of the choicest liquors, ostensibly for culinary purposes, and their Epicurean guests, some of whom are remarkably fond of these agreeable condiments, are allowed to season their dishes according to their own taste. The writer has travelled extensively in the State of Maine, since the adoption of the liquor law, and his own observation, corroborated by the testimony of every eastern trader and traveller whom he has consulted, attests to the fact that intoxicating liquors are as readily obtained, (except by suspected informers) and as extensively consumed, in all places where the article is usually procured, under the present prohibitory system, as when the traffic was unrestricted. The only perceptible difference in the order of things, is, that where formerly the traffic was open and undisguised, it is now clandestine; that where there were then voluntary honest men, there are now involuntary knaves and hypocrites; that those who formerly abstained from alcohol, now use it as a beverage, from sheer roguery, and those who formerly drank but moderately, now drink to excess, to show their contempt for the law. Every conceivable stratagem which human ingenuity can devise has been put in requisition to effect the sale of alcohol in defiance of the government. It is dealt out as camphene, served up as coffee, done up as confectionery, put up as medicine, perfumery and mineral water, and a hint has lately been thrown out in regard to the invention of a little domestic utensil, the cost of which is less than a dollar, by which, with a simple lamp and alembic, and a quantity of any kind of fermented liquid, any thirsty toper may distil alcohol enough in a few hours to keep him drunk for a whole week. The druggists of Maine, probably, more than any other class, have been instrumental in evading the liquor law; the past year has been a season of harvest to the knights of the mortar; drugs and medicines were never

in such demand, and many poor valetudinarians have apparently subsisted on medicines alone. Their drugs, however, are generally quite harmless, and when made into tinctures, of ominous colors and occult names, are really "not bad to take." A short time since, sundry casks of "rice" were shipped from Boston to a respectable down-east firm, and arrived at their destination in safety; but, on landing them at the pier, the Argus eyes of a police officer discovered a suspicious liquid oozing from one of them, and remarked that the rice must be damaged, as it was very "wet." But a keen-scented wag suggested that perhaps the cask contained rice-pudding, cooked to order, and that this oozing liquid was the brandy-sauce with which it was to be served up. Upon this suggestion, the esurient official, who had not dined, eagerly opened the cask, and found, to his disappointment, *raw* rice; but, on fathoming the mystery still deeper, he hit upon a concentric cask of genuine "Rasteau Charruyer," imbedded in the grain, and, upon making a similar experiment on the others, with a like result, they were all taken in custody by the authorities, who left the disconsolate importer merely his "pudding," without the "sauce."

An intelligent citizen of Maine was asked, while recently in conversation respecting the operation of the liquor law, why the venders and consumers, in that State, were not more urgent and clamorous for the repeal of such an oppressive statute. He replied, "Because they can sell all they please, and buy all they want, in spite of the law." But there is reaction in Maine, in reference to this law, as the result of another popular election will demonstrate. The people have had enough of the experiment, and are beginning to writhe under the yoke of despotic sway. Petitions are in circulation, and the press strikes boldly for its repeal.

Notwithstanding these occasional seizures of spirits, the amount thus confiscated is but as a drop of the bucket, compared with that which passes securely to its destination, and is sold and consumed in spite of the vigilance of the government. The people of Maine, under this law, have become (and we say it with no feelings of disrespect for them) literally a community of smugglers; and while, as we are assured by those who have the best means of information, the actual consumption, as a beverage, has not at all diminished, the consumption for medicinal, mechanical and sacramental purposes, (whether "legitimate" or not the reader can judge) has *more than doubled*—being, in the city of Portland alone, under Neal Dow's dispensation, estimated at \$20,000 worth. The *profits* of the trade have also been increased in the same proportion as the difficulty and hazards in carrying it on. The demand in the Boston market, from that quarter, has been materially increased since this law has been in operation, and the same is probably true in regard to other domestic markets frequented by eastern traders, while the importation of foreign spirits, under the protection of the Federal government, has received an unusual impulse. Hence,

not to mention the serious evils incident to and inseparable from the operation and enforcement of the liquor law, it has, at the least calculation, cost the State of Maine \$100,000 more for ardent spirits, during the past year, than in any previous year when the traffic was unrestricted. So much for the glorious triumph of this *ne plus ultra* of fanaticism in Maine!

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## CHAPTER VIII.

### *Pauperism and Crime—Operation of the Law as affecting the Interests of Commerce and Productive Industry—The License System.*

It has been asserted and reiterated by those who have more zeal for total abstinence than they possess knowledge of the causes which affect the social conditions of men, that the intemperate use of alcohol is chargeable with nearly all the pauperism and crime with which society is afflicted. So far from this being true, we assert, (and have already shown in Chapter 6,) that the very converse of this proposition is nearer the truth—that pauperism, crime and misfortune, are strictly responsible for nearly all the excess in the use of stimulating drinks. The criminal, who has lost his self-respect; the victim of seduction, who has lost her caste in society; the poor man, who can afford no higher indulgence of his social and convivial propensities than the bar-room affords—all resort to the bottle, because society affords them no other alternative; and when society prescribes sumptuary law to cure the malady of intemperance, we would say to it—"Physician, heal thyself!" First, endeavor by legislation to mitigate the condition of the poor, the unfortunate and the erring, and then you have done more to subdue intemperance than the framers of this law ever thought of doing, and have actually obviated the necessity of all legislation upon the subject, whether prohibitory or regulative. But the statistical philanthropist tells us, that out of so many paupers, in such a charitable institution, a large proportion were habitually intemperate, and jumps at the conclusion that they were reduced to pauperism by this habit—whereas, the truth is, that, in most cases, the habit is but the result of their condition, and they were literally paupers before they became drunkards. What, then, has caused the rapid increase of pauperism in our community within the last half century? We answer—immigration—the influx of foreign, ready-made paupers—the victims not only of oppression and poverty, but of disease and imbecility. The prisons and almshouses of England and Ireland, periodically, when crowded to excess, vomit forth their loathsome horde, which is generously transported, at the government expense, to free-hearted, open-handed America, as a precious boon for our public guardian-

ship and our prison discipline. These are the foul materials which glut our public institutions; but still the sin of causing all this human misery is laid at the door of intemperance, and its burden of guilt most wrongfully laid upon the shoulders of our fellow-citizens engaged in the manufacture and traffic in ardent spirits, whose occupations have really nothing more to do with it, nor indeed half so much, as the ship-builders' who construct the vessels which bear them to our shores. True, some of these immigrants, (if they keep out of police custody long enough,) become drunkards among us; in default of employment, they loiter about the Broad street grogeries, where a liquid, more vile and pernicious than the "weird sisters" ever concocted, is dealt out by the cent's worth, and produces not only drunkenness, but insanity. Under a system of licenses which should prevent such abuse, by confining the sale of spirits to respectable and responsible dealers, these infamous dens would be entirely swept out of existence.

As to the causes of crime, however multifarious, pecuniary motives are well known to be the principal.

But, supposing we might, by the aid of penal statutes, entirely suppress the manufacture of ardent spirits as a beverage in this Commonwealth, how far would this step subserve the purposes to be attained by such legislation? In the first place, it could not, as we have shown, prevent the traffic in imported spirits, as authorised by the Federal laws, and the importation would increase in proportion to the demand created by the deficiency of home production. What advantage do we gain by crushing the distilleries in our own State, when, not only the Old World (now only a ten days' passage distant from us) stands ready to supply us, but the States on our south, west and north, with their distilleries in full blast, have every facility to supply us with what we are forbidden to supply ourselves? Are the people of Massachusetts the gainers by such a policy? If our distillers are allowed to manufacture spirits for mechanical and medicinal purposes only, they of course cannot compete with those, in other States, who supply them as a beverage also; while the business of the former is, to a great extent, curtailed and crippled by this law, the business of the latter is vastly extended by it, in giving them the exclusive control of our own market. The distilleries of the Middle States at present manufacture an article (of damaged grain, and other partially decayed vegetables, more proper for nourishing the growth of vegetation than for distilling,) which is cheaper than any made in Boston, and much viler than it is cheap. It is dealt out to immigrants in Broad street, and to abandoned characters in Ann street, where its damning qualities have obtained for it a well-known and significant *soubriquet*; and this pernicious article must supply the place, in our community, of that now distilled in Boston, from pure molasses, provided the provisions of this law are carried into effect.

But what must be the effect upon our trade, commerce and internal prosperity, of prohibiting the manufacture of spirits in Massa-

chusetts? In the first place, the domestic trade which now comes to us—for alcohol to be used in the arts and in medicine, among other things—will be diverted to New York, where it can obtain a *complete assortment*; our trade with the West Indies, whose ports now afford an extensive market for many of our domestic manufactures and agricultural products, in return for their molasses, (a large portion of which becomes sour on its way hither, and suitable only for distilling) must be essentially diminished, or carried on through the medium of other domestic ports; our capital must be diverted, as business forsakes us, into other channels, and seek investment in other States; our industrial as well as commercial interests must suffer; real estate must depreciate in value, and the wonted activity and thrift of our towns and cities must give place to idleness and premature decay. So intimately is this branch of productive industry (employing a capital of many millions in our State) blended with the various interests of commerce, manufactures and agriculture, that it cannot be (and why should it be?) outlawed, without seriously affecting the prosperity of our whole community.

But while we deny the right or expediency of unconditionally *prohibiting* the manufacture and sale of ardent spirits, for any purpose, we also admit the necessity of *regulating* the traffic in them as an article of beverage, in such a manner as to prevent abuses in the *sale*, as well as the equal necessity of providing against abuses in the *consumption*. As the latter abuse is not only the most frequent, but generally the most wanton, so it should be regarded by the laws as the most criminal, and punished with greater severity. If it is the right of individuals to drink alcoholic liquors, without abuse, (as we have endeavored to show) it is also the right of others to sell them; but it is not the right of any individual to injure himself or offend society by drunkenness. Hence, while selling alcoholic beverages is, under general circumstances, justifiable, and, with proper restrictions, should be tolerated, inebriation is, under all circumstances, a violation of the rights of society, and should be dealt with accordingly.

In regulating the traffic in ardent spirits, there are several great advantages to be attained, as well as difficulties to be avoided. While we aim to confine the trade in responsible and conscientious hands, and to throw around it such guaranties as will secure the public health against the imposition of noxious drugs and spurious mixtures, we must not create a monopoly, as this law does, by taking away from the poor man what it has not the power to deny to the rich. Licenses must be granted, not only with a view to public security, but with due regard to equal rights. Their principle should be general, like that of our Corporation Act, but stringent in its requirements of integrity and responsible conduct. In short, we need such a license law as shall require dealers to guarantee the quality of their sales, give bonds for the quiet and orderly conduct of their business, be responsible for whatever inebriation

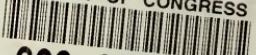
may occur upon their premises; and, (as incidental abuses are liable to any license system, however carefully guarded,) such sums should be paid for licenses—to go into the county or town treasuries, as a reserved fund, to be applied to this specific purpose—as may be sufficient in the aggregate to relieve whatever pecuniary distresses may be caused directly by intemperance.

Such a law, which should neither take away the prerogatives of the citizen, nor uphold him in abusing them, must prove the only effectual, as it is the only constitutional, code of legislation which can be adopted for promoting the ends of total abstinence. It is the mean between the two extremes of inaction and overaction; if we seek to do less good than may be attained by this rational medium, we do nothing; but if we attempt to do more than this, by adopting the ultra and intemperate provisions of the Maine liquor law, we do worse than nothing—positive, unmitigated, incalculable evil.

ERRATUM.—On the 10th page, in the 2d line, for “*furnishes*” read “*punishes*.<sup>”</sup>



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